

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 28 MAY 2004

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Applicant's or agent's file reference P/63625/GPTU64	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IB 03/01469	International filing date (day/month/year) 18.03.2003	Priority date (day/month/year) 23.03.2002
International Patent Classification (IPC) or both national classification and IPC H04Q11/00		
Applicant MARCONI COMMUNICATIONS GMBH et al.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 15.10.2003	Date of completion of this report 27.05.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Pais Gonçalves, A Telephone No. +49 89 2399-8806 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/B 03/01469

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-16 as originally filed

Claims, Numbers

1-14 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1,3,9
Inventive step (IS)	Yes: Claims	
	No: Claims	1-14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

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EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IB03/01469

The following document (D) is referred to in this report:

D1: WO 01 74111 A

1. The present application contains three independent claims (1, 3 and 9) relating to a unique optical cross-connect essentially having **identical scope**.
 - 1.1 Thus the claims as a whole are **not clear and concise** and hence the requirements of Article 6 PCT are not met.
 - 1.2 Having regard to the requirements of Rule 6.4(a) PCT, it is considered appropriate in the present case to use only one independent claim corresponding to this single category and dependent claims as appropriate.
2. Notwithstanding the above-expressed clarity objection, it should be noted that the essential features of Claims 1, 3 and 9 are contained in D1 (see in particular abstract) which discloses a similar optical cross-connect for use in WDM comprising a multi-stage switching matrix comprising several switching matrices for adding/dropping according to the wavelength.
 - 2.1 Therefore, the subject-matter of claims 1, 3 and 9 is **not new**, Article 33 (1), (2) PCT.
 - 2.2 Furthermore, it should be noted that, even if novelty of claims 1, 3 or 9 could be argued based on minor differences between their subject-matter and the disclosure of D1, this subject-matter would still not involve an inventive step, Article 33 (1), (3) PCT, taking into account that D1 discloses the same object and the same type of solution as presently claimed, namely for providing a routing of through optical signals with an add/drop facility.
3. The additional features of the dependent claims seem to relate to minor design details and/or implementation measures, which are known or directly derivable from document D1 or constitute normal practice of a person skilled in the art.
 - 3.1 These claims thus, either alone or in combination, do not seem to add anything new or of inventive significance to any of the previously-referred claims.
4. Moreover, the above-cited document **D1** was not **acknowledged** and briefly

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discussed in the opening part of the description, Rule 5.1 (a) (ii) PCT.

5. Although being drafted in a two-part form as recommended by Rule 6.3 (b) (ii) PCT, the independent claims do not correctly reflect the prior art of document D1 because they do not contain in their pre-characterizing part all features known from D1 (refer to point 2 above).
6. Furthermore, figures 2 and 3 of the drawings do not fulfil the requirements of Rule 11.13(h) PCT.